

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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SEA CARRIERS LP I and  
SEA CARRIERS CORPORATION  
(individually and on behalf of those  
similarly situated),

v.

NYSE EURONEXT, INC., et als.

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:  
: Case No. 07-civ-4658 (LAP)  
:  
: **DECLARATION OF**  
: **MARTIN L. BOROSKO IN SUPPORT OF**  
: **MOTION OF SEA CARRIERS LP I AND**  
: **SEA CARRIERS CORPORATION FOR**  
: **APPOINTMENT AS LEAD PLAINTIFFS**  
: **AND FOR APPROVAL OF ITS**  
: **SELECTION OF COUNSEL**  
:

**Document Electronically Filed**

**MARTIN L. BOROSKO**, pursuant to 28 U.S.C. § 1746, declares as follows:

1. I am a Managing Member of the law firm Becker Meisel LLC.<sup>1</sup> Sea Carriers Corporation and Sea Carriers LP I have retained Becker Meisel to represent them as named lead plaintiffs in the above-referenced litigation. I submit this declaration in support of the pending motion to appoint Sea Carriers Corporation and Sea Carriers LP I as lead plaintiffs and to appoint Becker Meisel and Schatz, Nobel, Izard, P.C. ("Schatz Nobel") as co-lead counsel. I have full knowledge of the facts set forth herein.

**EXPERIENCE**

2. Becker Meisel is a twenty-three attorney firm with offices in New Jersey and New York. The firm holds an AV rating from the Martindale Hubbell Directory of Attorneys, which is the highest possible rating for both legal ability and ethics. The firm provides litigation, transactional and counseling services to a broad spectrum of clients. The firm maintains a

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<sup>1</sup> The firm intends to file a motion to admit me *pro hac vice* in this matter.

website at [www.beckermeisel.com](http://www.beckermeisel.com) which describes its various practice areas and the experience of the firm's attorneys.

3. The firm has extensive experience prosecuting and defending complex, multi-party claims, multi-jurisdictional claims and class action claims. The firm also has extensive experience counseling clients in securities law. That combination of experience will enable Becker Meisel to represent the putative class competently.

**A. Business Litigation.**

4. Litigation is a core practice area within the firm. The litigation department handles a wide range of commercial and other forms of business disputes.

5. The litigation department consists of nine full-time members, along with several partners and associates who divide their time between the litigation department and other departments. The department's roster includes a retired Associate Justice of the New Jersey Supreme Court; an attorney who has represented the lead plaintiff in a number of major class actions; an attorney who has significant involvement in a number of major securities and antitrust class actions; and two attorneys who have defended a number of class actions, including class actions involving anti-trust and unfair trade practice claims. I attach hereto as Exhibit "A" a copy of the biographies of a number of the key members of the litigation department. The litigation department is supported by several paralegals.

6. Members of the litigation department have successfully represented both plaintiffs and defendants in class actions including, but not limited to: one of the largest federal age discrimination class actions ever filed in New Jersey; a federal employment discrimination class action against Merrill Lynch; and a federal class action against a major textile company under

the WARN Act. The firm will draw upon this unique experience in representing the putative class.

7. Members of the litigation department also have experience representing defendants in class actions, including: defending entities in major securities and anti-trust class actions; defending a major foreign automobile manufacturer in a class action involving anti-trust claims; defending a national insurance company in a class action alleging illegal and unfair trade practices with respect to the underwriting of homeowners' policies; and defending an automobile dealership group in several class actions brought under the New Jersey Consumer Fraud Act, the Truth In Lending Act and the Fair Credit Reporting Act. That experience provides Becker Meisel with insight that many firms do not possess.

8. The litigation department derives tremendous benefit from the judicial experience of Daniel J. O'Hern. As Associate Justice of the New Jersey Supreme Court, Mr. O'Hern helped shape state class action law. He authored important opinions setting the standard for class certification. *See, e.g., Strawn v. Camuso*, 140 N.J. 43 (1995). The litigation department will utilize Mr. O'Hern to vet its pleadings and legal arguments.

9. In addition, the firm regularly represents clients in complex, "high-risk" matters, which typically involve novel legal issues. By way of example, the firm currently represents Asbury Partners, LLC, the designated redeveloper for the City of Asbury Park, in a number of interrelated, multi-party lawsuits challenging its right to implement an estimated one billion dollar redevelopment project. The firm also represents Cytodyne, LLC; Cytodyne I, LLC;

Phoenix Laboratories, Inc.; and Evergood Products Corp. in a 100 million dollar fraudulent transfer claim arising out of a merger and acquisition.<sup>2</sup>

**B. Securities.**

10. The litigation department will draw upon the securities law experience of James M. McCarrick, a partner in the firm's corporate law department. Mr. McCarrick has practiced primarily in the area of securities law for the past eleven years.

11. As a securities law attorney, Mr. McCarrick has participated in numerous public and private offerings, as well as business combination transactions, which included the generating of legal opinions regarding regulated transactions and public markets. He has advised public companies, financial institutions and insurers on making effective use of economic tools within systems of legal, accounting and regulatory control. He has advocated using system-based methodologies to support investigations, design compliance strategies and identify control failures. As part of this work, he has investigated audit and review procedures by accountants where disclosure failures precipitated financial restatements.

12. Mr. McCarrick has substantial experience with the legal and economic dynamics involved in securities class action litigation. Mr. McCarrick developed this experience through his representation of insurers subject to significant liability under various types of policies. In that capacity, he developed models to assess liability and damages in securities fraud cases,

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<sup>2</sup> The firm recently concluded its service as arbitrator in a binding arbitration commenced by Verizon of New Jersey, Inc., the incumbent local exchange carrier in New Jersey, against other local exchange carriers regarding modifications to interconnection agreements subject to regulation by the Federal Communications Commission. The firm's decision resolved a number of issues concerning the conditions under which Verizon is required to provide other local exchange carriers with access to its network.

including disclosure claims predicated upon actual or alleged non-compliance with GAAP or SEC accounting standards and internal control systems.

13. In connection with his securities law practice, Mr. McCarrick has developed an extensive economic and financial background for assessing dynamics affecting or involving participants in regulated public markets. He has conducted investigations on behalf of public and private issuers and investment companies regarding practices within exchanges and other market centers for consistency and compliance with market regulations, including national market system controls.

14. Mr. McCarrick is a principal of an economic consulting firm he founded to combine financial, economic, statistical and related expertise in support of investigations into regulated public markets.

#### **EMPLOYMENT OF CO-COUNSEL**

15. Becker Meisel has retained Schatz, Nobel & Izard, P.C. to serve as co-counsel in the matter.

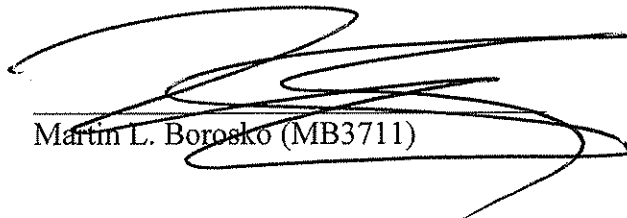
16. Like Becker Meisel, Schatz Nobel holds an AV rating from the Martindale Hubbell Directory of Attorneys, which is the highest possible rating for both legal ability and ethics. Schatz Nobel specializes in class actions and regularly represents investors in securities fraud class actions. That experience, combined with our firm's experience in business litigation, will greatly benefit the class. Schatz Nobel's firm resume is attached hereto as Exhibit B.

#### **CONCLUSION**

17. If approved as co-lead counsel to Sea Carriers LP I and Sea Carriers Corporation, Becker Meisel and Schatz Nobel will fairly, ethically and zealously represent the interests of the putative class.

I hereby declare that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: Livingston, New Jersey  
August 20, 2007



Martin L. Borosko (MB3711)

## **EXHIBIT A**

### **BIOGRAPHY OF DANIEL J. O'HERN**

Daniel J. O'Hern serves as Special Counsel to Becker Meisel and is a member of the firm's General Commercial Litigation Department. Mr. O'Hern devotes his practice to the areas of Appellate Practice, Business Litigation, Alternative Dispute Resolution and Mediation.

Mr. O'Hern is a former Associate Justice of the New Jersey Supreme Court. Governor Brendan Byrne nominated him for the Supreme Court on April 20, 1981. In 1988, Governor Thomas Kean nominated him to a second term. He served as an Associate Justice of the Supreme Court until his retirement in 2000.

Mr. O'Hern has a long history of public service both locally and statewide. He served as councilman and mayor of Red Bank between 1962 and 1978. In 1978, Governor Byrne appointed Mr. O'Hern as Commissioner of the New Jersey Department of Environmental Protection. Governor Byrne later named him as Counsel to the Governor.

Mr. O'Hern served as chair of the Judicial Salary and Pensions Committee, was appointed by the late Chief Justice Robert Wilentz as an advisor to the New Jersey Commission on Professionalism in the Law and chaired the Court's Family Practice Committee and Committee on Environmental Litigation. In recognition of his commitment and expertise in the area of professionalism and ethics, Governor McGreevey appointed him to the two-person panel formed to advise Governor McGreevey on matters relating to the interpretation and enforcement of the recently adopted Official Code of Governor's Ethics.

Mr. O'Hern was born in Red Bank in 1930. He graduated from Fordham College in 1951, served in the US Navy from 1951 to 1954 and graduated *cum laude* from Harvard Law School in 1957.

## **BIOGRAPHY OF JOHN J. O'CONNELL**

John J. O'Connell is a partner in the New York office. Mr. O'Connell focuses his practice in the area of complex commercial litigation and counseling clients on matters involving high technology. Prior to joining the firm, Mr. O'Connell was a partner at the law firm of DLA Piper Rudnick.

Mr. O'Connell has broad experience in disputes involving complex financial, accounting, and securities issues including SEC enforcement matters. He has had significant involvement in a number of major securities and antitrust class actions. In addition to handling litigation involving these issues, he has performed internal corporate inquiries on behalf of senior management and boards of directors involving alleged irregularities, and represented companies in congressional investigations.

Mr. O'Connell has represented large multinational telecommunications companies in matters involving technologies such as end-to-end broadband, voice over IP, multimedia services and applications, and wireless broadband. He has represented international information technology companies concerning systems integration issues, and several of the nation's largest utility companies on disputes over power plant design and construction (e.g., the systematic failure of supposedly integrated control systems). Other clients have included automobile and medical device manufacturer (e.g., an MRI manufacture) on design defect matters.

In addition, he regularly represents companies, municipalities, and individuals in civil litigation initiated by or against federal, state, or local agencies. In that regard, he has dealt extensively with the United States Attorney's Office for the Eastern District of New York almost continuously for the past twenty years.

Mr. O'Connell is the past president of an organization of Catholic Chief Executive Officers, the current executive director of a New York organization of Catholic lawyers, and an advisor to the Holy See (Vatican) Mission to the United Nations.

**Memberships:** The Association of the Bar of the City of New York (Member, Committee on International Human Rights, 1980-1981; Member, Committee on Civil Rights, 2001-) American Bar Association; Guild of Catholic Lawyers of Archdiocese of New York (Executive Director, 2001-) **Clerk Information:** Hon. Thomas F. Croake, U.S. District Court, Southern District of New York, 1972-1974 **Seminars Lecturer:** Energy Deregulation, Suffolk County Municipal; Coastal Environmental Law; Coastal Engineering Research Board of the United States Army Corps of Engineers; Florida Shore and Beach Association; Long Island Coastal Alliance; Coastal Zone Foundation **Special Counsel** to the Village of West Hampton Dunes for Environmental and Municipal Utility Issues

**Education** J.D., Fordham University School of Law 1972 A.B., Fordham University 1969.

## **BIOGRAPHY OF JAMES M. McCARRICK**

James M. McCarrick is partner who participates in the firm's corporate and complex litigation practice areas. Prior to joining the Firm, Mr. McCarrick represented financial, institutional, corporate and private clients from the New York and Washington DC offices of Paul Hastings Janofsky & Walker and Battle Fowler LLP, a predecessor firm. He also is one of the principal members of an economic consulting firm. Prior to 1997, Mr. McCarrick represented insurance providers on insurance coverage and defense oversight in an array of complex liability environments involving securities, corporate governance, antitrust and other matters. He is a member of the New York Bar.

In his commercial practice, Mr. McCarrick focuses on corporate and securities, real estate finance, private equity and investment fund law. He has extensive experience representing clients in respect to public offerings, private placements, real estate fund formation and capital raising, public and private mergers and acquisitions, venture capital transactions, real estate opportunity fund formation, corporate recapitalizations and restructurings, and international offerings.

Mr. McCarrick extends his corporate and securities law experience with an additional focus upon complex claims arising out of securities and financial markets and regulated market systems, including secondary markets and execution markets for public securities. He has led internal and external investigations on behalf of clients, drawing upon the skills and expertise of his partners in his economic consulting firm.

Mr. McCarrick is an alumnus of NYU, both for his J.D. and for his B.S. in Economics. He graduated from NYU's School of Law in 1994 and previously in 1988 from the Stern School of Business, where he was a member of the Omicron Epsilon Honors Society for Economics. Between 1990 and 1991, he pursued further post-bachelor studies in Mathematics and the Nature Sciences at Columbia University.

His professional publications include articles on the economic dynamics of complementary systems of regulation, liability and other environmental features of insurance and indemnity markets and their impact on complex litigation.

*When the Merits Don't Matter: The Influence of Insurance on Settlements in Securities Class Actions*, (with Karen Reardon, Esq.) Andrews D&O Litigation Reporter (three parts), republished from Professional Liability Underwriters Society (PLUS), Working Paper; Originally Presented at National PLUS Conference November 12, 1998;

*What Is All This Noise About the Merits?* : (with Dr. Bharat Sarath) (portfolio analysis to describe incentives for economic collusion between class action counsel and D&O insurers when bargaining over settlement values of securities litigation claims) PLUS Working Papers, presented National PLUS Conference, November 16-17, 1999.

## BIOGRAPHY OF MARTIN L. BOROSKO

Martin L. Borosko is the Managing Member of the Firm.

Mr. Borosko has extensive experience litigating complex commercial actions and real estate related disputes. He regularly represents corporate clients in state and federal courts. Mr. Borosko has handled matters for clients, such as Horizon Blue Cross Blue Shield of New Jersey, US Home Corporation, Asbury Partners, LLC, Applied Water Management, Premier Rinks, Inc. d/b/a Athletica, US Bancorp, the Trump Casinos, Vornado Realty Trust, Fireman's Fund Insurance Company, and Waste Management, Inc.

Mr. Borosko recently served as lead counsel to Asbury Partners, LLC in defending a series of inter-related actions brought by multiple parties attacking Asbury Partners' contractual and statutory rights to move forward with an estimated one billion dollar redevelopment of the City of Asbury Park's waterfront. In this capacity, he successfully litigated several matters of first impression, which have now made important new law. *See e.g. Jersey Urban Renewal v. City of Asbury Park*, 377 N.J. Super. 232 (App. Div. 2005).

Mr. Borosko has been involved in a number of additional cases that have made new law including (1) a case deciding a health care provider's standing to bring certain federal ERISA and state court claims against a health insurer for alleged wrongful denial of claims (*In re Lymcare, Inc.*, 301 B.R. 662 (Bankr. D.N.J. 2003)); (2) a case relieving property owners – subject to a large number of potential personal injury claims from visitors to their property – from the burden of having to provide actual notice of a bar date to all potential claimants and holding that personal injury claimants bear an affirmative duty to distinguish their claim from the thousands of other potential claims received by such entities in order to be considered a known creditor entitled to actual notice of the bar date (*In re Trump Taj Mahal Assoc.*, 1993 WL 534494 (D.N.J. Dec. 13, 1993)); (3) a case setting the standard of care owed by a general contractor to an owner under a cost-plus guaranteed maximum contract and interpreting the scope of "pay when paid" clauses in construction contracts (*Avon Bros., Inc. v. Tom Martin Const Co., Inc.*, 2000 WL 34241102 (N.J. App. Div. Aug. 30, 2000)); (4) a case establishing that the pre-petition withholding of a capitation payment under a medical service agreement between a national physician group and a regional health care provider did not violate the automatic stay (*In re APF, Co.*, 2001 WL 1820788, (D. Del., Aug. 31, 2001)) and (5) a case interpreting the ability of a municipality to cure a violation of the Open Public Meetings Act (*Nevin v. City of Asbury Park*, 2005 WL 2847974 (N.J. Super. App. Div. Nov. 1, 2005)).

Mr. Borosko was selected by *The New Jersey Law Journal* to be featured in its prestigious "40 Under 40" publication. Selection is based on a wide range of criteria, including high achievement in specific practice areas; a record of publication, lecturing and presenting to professional forums; recognition by peers and professional organizations; a leadership within their firm and within bar groups; pro bono and civic activity; and other distinguishing activities.

Mr. Borosko has been published in a number of legal and trade journals, appeared as a guest speaker on television news programs, been interviewed by news publications about matters he has handled and often speaks to industry groups on new developments in the law.

### **BIOGRAPHY OF DANIEL J. O'HERN, JR.**

Daniel J. O'Hern, Jr. is a partner in the litigation department. Prior to joining Becker Meisel, Mr. O'Hern was an associate in the commercial litigation law department in one of New Jersey's largest firms.

Mr. O'Hern has extensive experience representing corporate clients in commercial litigation matters in the New Jersey State and Federal Courts. Mr. O'Hern has handled cases for many Fortune 500 type clients, including Nortel Networks, DuPont, Johnson & Johnson, BMW, General Motors, Charter Communications, Cendant, and Aetna. Mr. O'Hern has also represented small to mid-size companies, as well as individuals in various types of commercial disputes and matters.

Mr. O'Hern has expertise in the areas of commercial law and business torts, including cases involving breach of contract claims, copyright infringement, investigation and litigation of business fraud, actions under the New Jersey Consumer Fraud Act, breach of warranty claims under the UCC, non-compete agreements, theft of trade secrets, franchise and distributorship disputes, landlord/tenant disputes and the prosecution and defense of collection actions.

Mr. O'Hern specializes in the representation of automobile dealerships, including defense of consumer complaints brought under the New Jersey Consumer Fraud Act and the Federal Truth and Lending Act, and the defense of class action claims against dealerships. Mr. O'Hern counsels automobile dealership on various compliance and regulatory matters to ensure compliance with the many State and Federal laws applicable to automobile dealerships.

Representative cases include: the defense of a class action brought against an automobile dealership that alleged that the dealership's method of sale of a dealer installed option violated a regulation under the New Jersey Consumer Fraud Act that required disclosure of pre-delivery services in the purchase contract; the successful defense of a multi million dollar breach of contract claim against a major international automobile manufacturer by a trucking company that transported its automobiles; and direction of a high profile litigation between two major U.S. companies that involved allegations that executive level employees were hired away by the defendant company in breach of restrictive covenants.

Mr. O'Hern was appointed by the New Jersey Supreme Court to its Attorney Ethics Committee for the Newark area and served on that Committee from 2001 to 2003. Mr. O'Hern was appointed by the New Jersey Supreme Court its Monmouth County Ethics Committee in 2006.

Mr. O'Hern graduated Cum Laude from the University of Pittsburgh School of Law in 1991. He obtained a Bachelor of Arts Degree in Economics from Fairfield University in 1983. He was admitted to the New Jersey Bar in 1991.

### **BIOGRAPHY OF JOSEPH G. HARRAKA, JR.**

Joseph G. Harraka, Jr. is a partner in the Firm's Litigation Department.

Over the course of his 20 years of practice, Mr. Harraka has been involved in, and has served as lead trial counsel for, various civil and business litigation matters, including handling the defense of class action type claims, in various state, federal, and bankruptcy courts. He has focused his practice on representing insurance companies, financial institutions, real estate developers, and brokerage firms. His areas of special experience include insurance coverage, bad faith, real estate, breach of contract, banking, fraud, securities, landlord-tenant, and other complex type commercial litigation matters including class actions.

Mr. Harraka received his B.A. degree, *magna cum laude*, in 1982 from Seton Hall University. He received his J.D. degree, *cum laude*, in 1985 from the University of Notre Dame Law School, where he graduated in the top 10% of his class. Mr. Harraka was an academic scholarship recipient at Notre Dame and was the Executive Director of Notre Dame's Moot Court Board. Mr. Harraka also recently received his MBA degree, *magna cum laude*, from the University of Southern California in 2004.

Mr. Harraka is admitted to practice in all state and federal courts in New Jersey, New York, and California. He is a member of the New Jersey Bar Association, the New York Bar Association, the State Bar of California, and the American Bar Association and has been active in state and local bar activities.

## **EXHIBIT B**

## SCHATZ NOBEL IZARD, P.C.

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### RESUME OF SCHATZ NOBEL IZARD, P.C.

Schatz Nobel Izard, P.C. is one of the premier firms engaged in class action litigation on behalf of investors alleging misrepresentations in connection with the purchase or sale of securities. We are currently lead or primary counsel in many large securities or ERISA class actions, including cases against AT&T, AOL Time Warner, JDS Uniphase, Cable & Wireless, Sprint, and Tyco International. In the securities fraud class action against Campbell Soup Company, we represented the pension funds of the State of Connecticut as lead plaintiff. We recently settled the securities fraud class action on behalf of investors in Smallworldwide plc, for over 85% of the total losses claimed by class members.

Schatz Nobel Izard, P.C. has been formally appointed by many courts as lead counsel or co-lead counsel for investors in securities class actions, including Papanikolaou v. Value-Added Communications, et al., No. 3-95CV0346-H (N.D. Tex.), Gorga v. Uniroyal Chemical Corporation et al., No. CV-96-0132014-S (Conn. Super.); David v. Simware, Inc. et al., No. 96/602143 (N.Y. Sup.), Butler et al. v. Northstar Health Services, Inc. et al., No. 96-701 (W.D. Pa.), Allen, et al v. Johansson, et al., 397CV02172 (RNC) (D. Conn.), Feiner v. SS&C Technologies, Inc. et al., 397CV0656 (D. Conn.), Berti, et al. v. Videolan Technologies, Inc., et al., No.3:97CV296H (W.D. Ky.), Ganino, et al v. Citizens Utilities Company, et al., No. 398CV00480 (JBA) (D. Conn.), Bunting, et al v. HealthCor Holdings, Inc., et al., No. 398CV0744-D (N.D. Tex.), Hirsch, et al. v. PSS World Medical, Inc., et al., No. 98 502 Civ. J20A (M.D. Fla.), Kenneth Blau, et al v. Douglas Murphy, et al., No. H 99 0535 (S.D. Tex.),

**SCHATZ NOBEL IZARD, P.C.**

Angres v. Smallworldwide plc, No. 99-K-1254 (D. Colo.), In re Complete Management, Inc. Sec. Litig., No. 99 Civ. 1454 (S.D.N.Y.), Allain Roy v. dElia\*s, Inc., et al., No. 99 Civ. 3951 (JES) (S.D.N.Y.), Russo, et al v. KTI, Inc., et al., No. 99-1780 (JAG) (D.N.J.); Laborers Local 1298 Pension Fund v. Campbell Soup Company, et al., No. 00-152 (JEL) (D.N.J.); Hart v. Internet Wire, et al., No. 00 Civ. 6571 (S.D.N.Y.), Ottmann v. Hanger Orthopedic Group, Inc., et al., Civil Action No. AW 00CV3508 (D. Md.), In re PolyMedica Corp. Sec. Litig., No. 00-12426-REK (D. Mass.), Karl L. Kapps, et al. v. Torch Offshore, Inc., et al., Case No. 02-CV-0582 (E.D. La), In re Cable and Wireless, PLC, Sec. Litig., Civil Action No. 02-1860 (E.D. Va), In re Alloy, Inc. Sec. Litig., Case No. 03-CV-1597 (S.D.N.Y.), In re Surebeam Corporation Sec. Litig., Case No. 03-CV-1721 (S.D. Cal); In re Primus Telecommunications Group, Inc. Sec. Litig., Master Case No. 04-970-A (E.D. Va.); In re Netopia Sec. Litig., Case No. C 04-3364 (N.D. Cal); Malasky v. IAC/InterActive Corp., et al., Case No. 04-CV-7447 (S.D.N.Y.); In re Supportsoft, Inc. Sec. Litig., C 04-5222 SI (N.D.Cal.); Berson v. Applied Signal Technology Inc. et al., 4:05-cv-01027-SBA (N.D.Cal.); The Cornelia L. Crowell GST Trust v. Pemstar, Inc. et al., 05-CV-1182 (D. MN); UFCW Local 880 Retail Food Employers Joint Pension Fund v. Newmont Mining Corp. et al., No. 05-CV-01046 (D. Colo.); Aviva Partners v. Exide Technologies et al., 3:05-CV-03098 (D. NJ); In re Veritas Software Corp. Sec. Litig., No. 04-831 (D. Del.); and In re Ionatron, Inc. Sec. Litig., Case No. 06-354 (D. AZ).

We have also been responsible for many important decisions which have advanced the cause of shareholder protection through the federal securities laws, including in Ganino, et al v. Citizens Utilities Company, et al, 228 F.3d 154 (2d Cir. 2000), In re Campbell Soup Sec. Litig., 145 F. Supp.2d 574 (D.N.J. 2001), In re Complete Management, Inc. Sec. Litig., 153 F.Supp. 2d 314 (S.D.N.Y. 2001), Angres v. Smallworldwide, plc, 94 F. Supp.2d 1167 (D. Colo. 2000), and Feiner v.S&C Technologies, Inc., 47 F. Supp.2d 250 (D. Conn. 1999).

**SCHATZ NOBEL IZARD, P.C.**

In ERISA cases, Schatz Nobel Izard has been formally appointed as sole or co-lead counsel in Overby v. Tyco International, Ltd., No. 02-CV-1357-B (D.N.H.); In re Reliant Energy ERISA Litig., No. H-02-2051 (S.D. Tex.); In re AOL Time Warner, Inc. Sec. and ERISA Litig., MDL Docket No. 1500 (S.D.N.Y.); Furstenau v. AT&T, Case No. 02 CV 8853 (D.N.J.); In re AEP ERISA Litig., Case No. C2-03-67 (S.D. Ohio); Pettit v. JDS Uniphase Corporation, Civil Action No. 03-4743-CW (N.D. Cal.); In re Sprint Corporation ERISA Litig., Master File No. 2:03-cv-02202-JWL (D. Kan.); In re Cardinal Health, Inc. ERISA Litig., Case No. C 2-04-642 (S.D. Ohio); Spear v. Hartford Fin. Svcs Group, Inc., No. 04-1790 (D. Conn.); In re Merck & Co., Inc. Securities, Derivative and ERISA Litig., MDL No. 1658 (D.N.J.); In re Diebold ERISA Litig. No. 5:06-CV- 0170 N.D. Ohio; In re Dell, Inc. ERISA Litig., Case No. 06-CA- 758-SS (W.D. Tex.); In re Bausch & Lomb, Inc. ERISA Litig., Master File No. 06-CV-6297-MAT-MWP (W.D.N.Y.); and to the Steering Committee in Tittle v. Enron Corp., No. H-01-3913 (S.D. Tex.); In re Electronic Data Systems ERISA Litig., 3:02-cv-1323 (E.D. Tex.); and In re Marsh ERISA Litig., Master File No. 04 cv 8157 (S.D.N.Y.). We are responsible for the seminal decision in Vivien v. Worldcom, Civil Action No. 2-01329 (N.D. Cal.), in which the Court in denying a motion to dismiss affirmed the legal theory upon which these cases are based.

PARTNERS

Andrew M. Schatz has concentrated his practice on class action litigation for over 30 years, representing both plaintiffs and defendants. Since founding the firm in 1995, has been, and remains, actively involved in all areas of the firm's practice.

Mr. Schatz graduated Cornell University with honors in 1972 and Harvard Law School with honors in 1976, where he was the Articles Editor of the *Harvard Civil Rights-Civil Liberties Law Review*. In 1976, Mr. Schatz joined the Chicago law firm of Sachnoff, Schrager, Jones & Weaver, where he was a partner from 1979 until 1987 and managed the firm's office in Hartford,

**SCHATZ NOBEL IZARD, P.C.**

Connecticut in 1986-87. Mr. Schatz played a key role in that firm's representation of plaintiffs in numerous securities, antitrust and consumer class actions, including national antitrust class actions against the paper industry, major national securities class actions against Equity Funding Corp. of America and the Washington Public Power Supply System, and consumer class actions against Allstate and other insurance companies, as well as serving as counsel for plaintiffs and defendants in many non-class cases.

In 1987, Mr. Schatz joined Schatz & Schatz, Ribicoff & Kotkin in Hartford, Connecticut, where he headed that firm's corporate and securities litigation practice. While at that firm, Mr. Schatz represented publicly-held corporations and their directors and officers as defendants in many securities class actions and derivative actions, including numerous corporations in the retail, banking and brokerage industries.

Mr. Schatz has also been active in *pro bono* cases in both Chicago and Hartford, including cases seeking to protect rights of those with physical and mental disabilities and other forms of discrimination. He has served as co-counsel in numerous cases with the American Civil Liberties Union and Lawyers Committee for Civil Rights as well as other organizations.

Mr. Schatz is a director of the American Civil Liberties Union of Connecticut, the Greater Hartford Legal Aid Foundation and numerous community organizations, a member of the Securities Advisory Council to the Connecticut Department of Banking, a member of the Connecticut and American Bar Associations and a speaker on panels relating to securities fraud and the duties of directors of publicly held corporations.

Jeffrey S. Nobel co-founded the firm in 1995. Mr. Nobel is a 1989 graduate of Albany Law School, where he served as an Associate Editor of its Law Review, and is also a 1986 *cum laude* graduate of the University of Connecticut, Storrs, where he received a Bachelors of Arts degree in Political Science.

**SCHATZ NOBEL IZARD, P.C.**

Following his law school graduation in 1989, Mr. Nobel was employed as a litigation associate with the Hartford, Connecticut law firm of Schatz & Schatz, Ribicoff & Kotkin, where he represented officers and directors in various securities class action cases, as well as corporations and financial institutions in complex litigation matters.

Since co-founding the firm in 1995, Mr. Nobel has concentrated his practice on representing investors, consumers and employees harmed by corporate wrongdoing. Mr. Nobel is admitted to practice in Connecticut, and has prosecuted class action suits in numerous State and Federal courts throughout the country, including the District of Connecticut, the District of New Jersey, the District of Colorado, the Northern, Central and Southern Districts of California, the Northern and Southern Districts of Texas, the Southern District of New York, the Middle District of Florida, the District of Minnesota, and the Eastern District of Virginia.

Robert A. Izard is the former chair of the Commercial and Business Litigation Committee of the Litigation Section of the American Bar Association. He leads the firm's ERISA team, which is at the forefront of retirement plan litigation in this country. He is lead counsel in many of the nation's most significant class actions, including cases against Merck, Tyco International, Time Warner, AT&T and Sprint among others.

Mr. Izard has substantial experience in other types of complex class action and commercial litigation matters. For example, he represented a class of milk purchasers in a price fixing case. He also represented a large gasoline terminal in a gasoline distribution monopolization lawsuit.

Prior to joining the firm, he was a partner at Robinson & Cole where he represented large corporate clients in a variety of business litigation matters. For example, he represented a large worker's compensation insurer in numerous class action lawsuits filed throughout the country concerning an alleged conspiracy to fix worker's compensation insurance rates.

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As part of his twenty plus years litigating complex commercial cases, Mr. Izard has substantial jury and nonjury trial experience, including a seven-month jury trial in federal district court.

He is also experienced in various forms of alternative dispute resolution, including mediation and arbitration, and is a Distinguished Neutral for the CPR Institute for Dispute Resolution.

Mr. Izard is the author of *Lawyers and Lawsuits: A Guide to Litigation* published by Simon and Schuster and a contributing author to the *Mediation Practice Guide*.

He received his B.A. from Yale University and his J.D., with honors, from Emory University, where he was elected to the Order of the Coif and was an editor of the *Emory Law Journal*.

Seth R. Klein graduated *cum laude* from both Yale University and, in 1996, from the University of Michigan Law School, where he was a member of the *Michigan Law Review* and the Moot Court Board and where he was elected to the Order of the Coif. After clerking for the Hon. David M. Borden of the Connecticut Supreme Court, Mr. Klein served as an Assistant Attorney General for the State of Connecticut, where he specialized in consumer protection matters and was a founding member of the office's electronic commerce unit. Mr. Klein thereafter joined the reinsurance litigation group at Cadwalader, Wickersham & Taft LLP in New York, where he focused on complex business disputes routinely involving hundreds of millions of dollars. At Schatz Nobel Izard, Mr. Klein's practice continues to focus on consumer protection matters as well as on complex securities and antitrust litigation.

Mark P. Kindall is a 1988 graduate of Boalt Hall School of Law at the University of California at Berkeley, where he served as Book Review Editor of the *California Law Review* and was elected to the Order of the Coif. He has a bachelor's degree in history with highest honors

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from the University of California at Riverside, and he also studied history at the University of St. Andrews in Scotland.

Mr. Kindall was an associate at Covington & Burling in Washington, D.C. from 1988 until 1990. In 1990 he joined the United States Environmental Protection Agency as an Attorney Advisor. He represented the U.S. government in international negotiations at the United Nations, the Organization for Economic Cooperation and Development, and the predecessor of the World Trade Organization. He was also a member of the U.S. Delegation to the United Nations Conference on Environment and Development (the "Earth Summit") in Rio de Janeiro in 1992.

In 1994, Mr. Kindall joined the Connecticut Attorney General's Office. As an Assistant Attorney General, he represented the State of Connecticut in numerous cases in federal and state court, as well as in various administrative tribunals. On several occasions, he argued appeals before the Connecticut Supreme Court and the United States Court of Appeals for the Second Circuit. In 2005, Mr. Kindall joined Schatz Nobel Izard, where his practice has focused on securities, pension and consumer fraud cases.

Mr. Kindall has taught courses in appellate advocacy and administrative law at the University of Connecticut School of Law. He is admitted to practice in Connecticut, California, and the District of Columbia. He is also a member of the bar of the United States Supreme Court, the U.S. Courts of Appeals for the Second, Ninth, and D.C. Circuits, and the United States District Courts for Connecticut, the District of Columbia, the Northern, Southern, and Eastern Districts of New York, and the Northern, Central and Southern Districts of California.

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ASSOCIATES

William Bernarduci graduated from Bucknell University with a Business Administration degree and graduated *magna cum laude* from New York Law School, where he was a member of the New York Law School Law Review. Upon graduation, he served as a law clerk for the Honorable Nina Gershon, United States District Judge for the Eastern District of New York.

His practice focuses on class action litigation in a variety of areas including ERISA, consumer and securities law, with a particular emphasis on litigation involving 401(k) retirement plans.

Prior to joining the firm, Mr. Bernarduci was associated with the New York law firms Skadden, Arps, Slate Meagher & Flom LLP and Dornbush Schaeffer, where he was involved primarily in complex commercial and securities litigation.

Mr. Bernarduci is admitted to the state and federal bars of Connecticut and New York, and is a member of the Connecticut Bar Association and the New York City Bar Association. He has had notable *pro bono* experience including a successful political asylum case on behalf of a Tibetan nun who was imprisoned for her political and religious activism.

Wayne T. Boulton received his bachelor's degree, cum laude, from Colgate University, and received his law degree, with honors, from the University of Connecticut School of Law. Mr. Boulton served as Special Deputy Assistant States Attorney for the State of Connecticut before joining the law firm of O'Connell Flaherty & Attmore LLP in Hartford, Connecticut. Mr. Boulton joined Schatz & Nobel P.C., in 2001.

Mr. Boulton has held numerous elected and appointed positions within the American Bar Association and the Connecticut Bar Association, including District Representative for the states of Connecticut and Rhode Island before the ABA's Young Lawyers Division. Through a compact between the ABA and the United States Federal Emergency Management Agency, Mr. Boulton

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became a director of Disaster Legal Services during recovery operations following the September 11, 2001 terrorist attacks.

Mr. Boulton's practice at Schatz Nobel Izard has focused on Employee Benefits Law, including Employee Retirement Income Security Act ("ERISA") litigation, as well as securities fraud and consumer class actions. His pro bono and community service work includes representation of the American Civil Liberties Union of Connecticut, including *In re National Security Agency Telecommunications Records Litig.*, and projects with the American Friends Service Committee.

Eric Palmquist graduated from Cornell Law School magna cum laude in 1999, where he was a member of the Cornell Law Review and elected Order of the Coif. Before joining Schatz Nobel Izard in 2004, Mr. Palmquist worked in the bankruptcy department at Dewey Ballantine LLP in New York City, where his work included representation of investors in a fraudulent Ponzi scheme, and at Axinn, Veltrop & Harkrider in Hartford, Connecticut, where he represented clients in antitrust, patent and commercial litigations, including litigation to prevent anticompetitive practices in the contact lens industry.

Since joining Schatz Nobel Izard, Mr. Palmquist has focused his practice on cases involving consumer fraud, pension fraud and antitrust violations.

Nancy A. Kulesa graduated from Fordham University with a B.A. with honors in International Politics, and earned her Juris Doctor from the University of Connecticut School of Law in 2001. Ms. Kulesa also studied comparative and international law at the University of London. Prior to joining Schatz Nobel Izard, Ms. Kulesa was involved in representing corporations seeking antitrust clearance of mergers and acquisitions.

Ms. Kulesa is involved in all of the firm's practice areas, with a primary focus on investigations, new cases and issues relating to the administration of individual and class actions.

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Ms. Kulesa is admitted to the Connecticut Bar and the United States District Court for the District of Connecticut.